

PATENT COOPERATION TREATY

From the
INTERNATIONAL PRELIMINARY EXAMINING AUTHORITY

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NOTIFICATION OF TRANSMITTAL OF
THE INTERNATIONAL PRELIMINARY
REPORT ON PATENTABILITY

(PCT Rule 71.1)

Date of mailing
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08.12.2005

Applicant's or agent's file reference
2003P15084WO

IMPORTANT NOTIFICATION

International application No.
PCT/EP2004/052339

International filing date (day/month/year)
28.09.2004

Priority date (day/month/year)
30.09.2003

Applicant

SIEMENS AKTIENGESELLSCHAFT et al

1. The applicant is hereby notified that this International Preliminary Examining Authority transmits herewith the international preliminary report on patentability and its annexes, if any, established on the international application.
2. A copy of the report and its annexes, if any, is being transmitted to the International Bureau for communication to all the elected Offices.
3. Where required by any of the elected Offices, the International Bureau will prepare an English translation of the report (but not of any annexes) and will transmit such translation to those Offices.
4. REMINDER

The applicant must enter the national phase before each elected Office by performing certain acts (filing translations and paying national fees) within 30 months from the priority date (or later in some Offices) (Article 39(1)) (see also the reminder sent by the International Bureau with Form PCT/IB/301).

Where a translation of the international application must be furnished to an elected Office, that translation must contain a translation of any annexes to the international preliminary report on patentability. It is the applicant's responsibility to prepare and furnish such translation directly to each elected Office concerned.

For further details on the applicable time limits and requirements of the elected Offices, see Volume II of the PCT Applicant's Guide.

The applicant's attention is drawn to Article 33(5), which provides that the criteria of novelty, inventive step and industrial applicability described in Article 33(2) to (4) merely serve the purposes of international preliminary examination and that "any Contracting State may apply additional or different criteria for the purposes of deciding whether, in that State, the claimed inventions is patentable or not" (see also Article 27(5)). Such additional criteria may relate, for example, to exemptions from patentability, requirements for enabling disclosure, clarity and support for the claims.

Name and mailing address of the international preliminary examining authority:



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PATENT COOPERATION TREATY
PCT
INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY
(Chapter II of the Patent Cooperation Treaty)
(PCT Article 36 and Rule 70)

Applicant's or agent's file reference 2003P15084WO	FOR FURTHER ACTION		See Form PCT/IPEA/416
International application No. PCT/EP2004/052339	International filing date (day/month/year) 28.09.2004	Priority date (day/month/year) 30.09.2003	
<p>International Patent Classification (IPC) or national classification and IPC H04L12/64</p> <p>Applicant SIEMENS AKTIENGESELLSCHAFT et al</p>			
<p>1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.</p> <p>2. This REPORT consists of a total of 7 sheets, including this cover sheet.</p> <p>3. This report is also accompanied by ANNEXES, comprising:</p> <p>a. <input checked="" type="checkbox"/> (<i>sent to the applicant and to the International Bureau</i>) a total of 3 sheets, as follows:</p> <ul style="list-style-type: none"> <input checked="" type="checkbox"/> sheets of the description, claims and/or drawings which have been amended and are the basis of this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions). <input checked="" type="checkbox"/> sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box. <p>b. <input type="checkbox"/> (<i>sent to the International Bureau only</i>) a total of (indicate type and number of electronic carrier(s)), containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).</p> <p>4. This report contains indications relating to the following items:</p> <ul style="list-style-type: none"> <input checked="" type="checkbox"/> Box No. I Basis of the opinion <input type="checkbox"/> Box No. II Priority <input type="checkbox"/> Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability <input type="checkbox"/> Box No. IV Lack of unity of invention <input checked="" type="checkbox"/> Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement <input type="checkbox"/> Box No. VI Certain documents cited <input checked="" type="checkbox"/> Box No. VII Certain defects in the international application <input type="checkbox"/> Box No. VIII Certain observations on the international application 			
Date of submission of the demand 29.07.2005	Date of completion of this report 08.12.2005		
Name and mailing address of the international preliminary examining authority:  European Patent Office D-80298 Munich Tel. +49 89 2399 - 0 Tx: 523656 epmu d Fax: +49 89 2399 - 4465	Authorized Officer Mircescu, A Telephone No. +49 89 2399-7645		
			

30/01/2005
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Box No. I Basis of the report

1. With regard to the **language**, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.
 - This report is based on translations from the original language into the following language, which is the language of a translation furnished for the purposes of:
 - international search (under Rules 12.3 and 23.1(b))
 - publication of the international application (under Rule 12.4)
 - international preliminary examination (under Rules 55.2 and/or 55.3)
2. With regard to the **elements*** of the international application, this report is based on (*replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report*):

Description, Pages

1-15 as originally filed

Claims, Numbers

2, 4-8, 10-15 as originally filed
1, 3, 9, 16-19 filed with telefax on 04.11.2005

Drawings, Sheets

15-5/5 as originally filed

a sequence listing and/or any related table(s) - see Supplemental Box Relating to Sequence Listing

3. The amendments have resulted in the cancellation of:
 - the description, pages
 - the claims, Nos.
 - the drawings, sheets/figs
 - the sequence listing (*specify*):
 - any table(s) related to sequence listing (*specify*):
4. This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).
 - the description, pages
 - the claims, Nos. 1, 9
 - the drawings, sheets/figs
 - the sequence listing (*specify*):
 - any table(s) related to sequence listing (*specify*):

* If item 4 applies, some or all of these sheets may be marked "superseded."

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Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Yes: Claims	
	No: Claims	1-19
Inventive step (IS)	Yes: Claims	
	No: Claims	1-19
Industrial applicability (IA)	Yes: Claims	1-19
	No: Claims	

2. Citations and explanations (Rule 70.7):

see separate sheet

Box No. VII Certain defects in the international application

The following defects in the form or contents of the international application have been noted:

see separate sheet

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The following document is referred to:

D1: US 2003/065805 A1 (BARNES MELVIN L) 3 April 2003 (2003-04-03)

A. Explanations with respect to Item I

1. The features

- (a) accepting the call jump by the other call party and generating a signal in response thereto indicating that the call jump should be completed;
- (b) initiating the call jump in response to the acceptance of the call jump as indicated by the signal comprising connecting the calling parties over a packetized network

of claim 1 and the corresponding features

- (a)' means for accepting the call jump by the other call party;
- (b)' a packetizer for packeting the multiplexed audio and video signals from the standard telephone equipment and the video to be sent over the packetized network when the call jump is requested by the call party and accepted by the other call party

of claim 9 are not disclosed in the description as originally filed, and, therefore, contravene Art 34(2)(b) PCT. The description as originally filed discloses on page 13, lines 15-33 and page 14, lines 1-29 two parties (A and B) communicating via the standard telephone network. In the case that either party comes up with the idea suddenly to add video to their call, the call jump procedure is triggered by an activation of the user. Then, both video enabled devices prepare for the call jump by establishing a connection via a packetized network. For an IP network the video enabled devices send a REGISTER message. This can be done from either side (A or B). But this clearly discloses a initiation of the call jump from A or from B without the acceptance notification from the communication partner, contrary to the features (a), (b) and (a)', (b)'.

This is further clarified on page 15, lines 9-26 of the description where it is stated that the users are unaware of the jump and are communicating using their known devices, particularly the PSTN telephone, and offer an additional manner to perform video communication via the packetized network. Thus no acceptance notification is explicitly disclosed and voice and video are simultaneously transmitted via different communication networks; otherwise stated, there are two connections present in parallel: one via the telephone network (voice) and one via the data network (video) without any acceptance notification.

Since (a), (b) and (a)', (b)' are not explicitly or implicitly disclosed in the description as originally filed the presence of (a), (b) and (a)', (b)' in claims 1 and 9, respectively, contravenes Art 34(2)(b) PCT. As a consequence thereof, features (a), (b) and (a)', (b)' are not considered for the assertion of novelty (Art 33(2) PCT), inventive step (Art 33(3) PCT), and industrial applicability (Art 33(4) PCT) of claims 1 and 9, respectively.

B. Explanations in respect with Item V

1. Document D1 which is considered to represent the closest prior art discloses according to all features of claim 1 a method for performing a call jump from a call established using a traditional telephone carrier to a video carrying call (see D1, page 6, paragraph 66; page 7, paragraphs 74-75), comprising the steps of:
 - establishing a traditional telephone call with audio signals (see D1, page 6, paragraph 66; page 7, paragraphs 74-75);
 - activating by one of the calling parties the call jump by operation of a telephone or device coupled to the telephone at that end (see D1, page 6, paragraph 66; page 7, paragraphs 74-75);
 - sending a request to complete the call jump in response to the activating step (see D1, page 6, paragraph 66; page 7, paragraphs 74-75); and
 - transmitting the audio and video over the packetized network (see D1, page 6,

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paragraph 66; page 7, paragraphs 74-75).

Therefore the subject matter of claim 1 is not new (Art 33(2) PCT).

2. Claim 9 relates to an apparatus comprising apparatus features corresponding to the method features defined by claim 1. The above objections with respect to claim 1 are thus applicable mutatis mutandis to this claim. Therefore, the subject matter of claim 9 is also not new (Art 33(2) PCT).
3. **Dependent claims 2-8 and 10-19** do not appear to contain any additional features which, in combination with the features of any claim to which they refer, are novel for the reason that the subject matter of said claims is disclosed in document D1 (see in particular figures 4-8; page 3, paragraph 39; page 4, paragraph 44; page 5, paragraph 61; page 6, paragraph 66; page 7, paragraphs 74-75; page 11, paragraphs 116-117; page 27, paragraph 280).

Therefore the subject matter dependent claims 2-8 and 10-15 is not new (Art 33(2) PCT).

4. The technical apparatuses and the technical processes defined in claims 1-19 can be realised by commercially available resources for the processing, transmission and storage of information; their subject matter is therefore susceptible of industrial application (Art 33(4) PCT).

C. Explanations with respect to Item VII

1. Claim 3 is not clear (Art 6 PCT) for the following reasons.
 - 1.1 Claim 3 does not meet the requirements of Art 6 PCT in that the matter for which protection is sought is not defined. The claim attempts to define the subject matter in terms of the result to be achieved, which merely amounts to a statement of the underlying problem, without providing the technical features necessary for achieving this result.

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Therefore the applicant should describe in claim 3 which steps are required to achieve the claimed optimization of the audio and video bandwidth in order to comply to Art 6 PCT.

2. The applicant's attention is drawn to the following matters, which should as well have been considered:
 - 2.1 To meet the requirements of Rule 5.1(a)(ii) PCT, the relevant background art disclosed in document D1 should have been acknowledged in the description.
 - 2.2 To meet the requirements of Rule 6.3(b) PCT, any independent claim should have been correctly cast in the two-part form, with those features which in combination are part of the nearest prior art being placed in the preamble.
 - 2.3 Reference signs in parentheses should have been inserted in all claims to increase their intelligibility, Rule 6.2(b) PCT. This applies both to the preamble and to the characterizing portion.

1. A method for performing a call jump from a call established using a traditional POTS-telephone carrier to a video carrying call, comprising the steps of:
- 5 | establishing a traditional POTS-telephone call with audio signals;
- 10 | activating by one of the calling parties the call jump by operation of a telephone or device coupled to the telephone at that end,
- 15 | sending a request to complete the call jump in response to the activating step,
- 20 | determining that video should be added to the call;
- 25 | accepting the call jump by the other call party and generating a signal in response thereto indicating that the call jump should be completed;
- 30 | initiating the call jump in response to the acceptance of the call jump as indicated by the signal comprising connecting the traditional POTS telephone call to calling parties over a packetized network; and
- 35 | transmitting the multiplexed audio and video over the packetized network.
3. The method of any of the preceding claims, further comprising the step of determining an optimum division between audio and video bandwidth by multiplexing the video signals with the audio on-demand.

9. A call jump system for jumping a call established over a traditional POTS-telephone carrier to a packetized network, comprising:

5 standard POTS-telephone equipment;

means for inputting a call party decision to activate the call jump at the call party end;

10 means for requesting the call jump to be completed to the other call party;

means for accepting the call jump by the other call party;

15 a video enabled device capable of rerouting the audio selectively to either the traditional telephone carrier or the packetized network;

20 a multiplexor multiplexing the audio and video; and

25 a packetizer for packeting the multiplexed audio and video signals from the standard telephone equipment and the video to be sent over the packetized network when the call jump is requested by the call party and accepted the other call party.

16. The method of claim 1 wherein the step of activating is achieved using at least one Dual Tone Multi Frequency key on the telephone.

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17. The method of claim 1, further comprising the step of charging the call party that activates the call jump.

18. The apparatus of claim 9, further comprising at least one Dual Tone Multi Frequency key to activate the call jump.

19. The apparatus of claim 9, further comprising means for charging the call party that activates the call jump.

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